

RIGHTS, PRIVILEGES, AND IMMUNITIES OF CONSULAR OFFICERS

Convention signed at Belgrade for the United States and Serbia October 14, 1881

Senate advice and consent to ratification July 5, 1882

Ratified by the President of the United States July 14, 1882

Ratified by Serbia November 11, 1882

Ratifications exchanged at Belgrade November 15, 1882

Entered into force November 15, 1882

Proclaimed by the President of the United States December 27, 1882

22 Stat. 968; Treaty Series 320

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND HIS HIGHNESS THE PRINCE OF SERBIA, DEFINING THE RIGHTS, IMMUNITIES AND PRIVILEGES OF CONSULAR OFFICERS

The President of the United States of America and His Highness the Prince of Serbia, being mutually desirous of defining the rights, privileges and immunities of consular officers in the two countries, as well as their functions and obligations, have resolved to conclude a consular convention, and have accordingly named as their plenipotentiaries:

The President of the United States, Eugene Schuyler, Chargé d'Affaires and Consul General of the United States at Bucarest;

His Highness the Prince of Serbia Monsieur Ched. Mijatovitch, His Minister of Foreign Affairs, Grand Officer of His Order of Takova, &c. &c. &c.

Who, after having communicated to each other their respective full powers, found to be in good and proper form, have agreed upon the following articles:

ARTICLE I

Each of the High Contracting Parties agrees to receive from the other, consuls-general, consuls, vice-consuls, and consular agents, in all its ports, cities and places, except those where it may not be convenient to recognize such officers. This reservation, however, shall not apply to one of the High Contracting Parties without also applying to every other power.

ARTICLE II

The consuls-general, consuls, vice-consuls and consular agents of the two High Contracting parties shall enjoy reciprocally, in the states of the other, all the privileges, exemptions, and immunities that are enjoyed by officers of the same rank and quality of the most favored nation. The said officers, before being admitted to the exercise of their functions and the enjoyment of the immunities thereto pertaining, shall present their commissions in the forms established in their respective countries. The Government of each of the two High Contracting Powers shall furnish them the necessary exequatur free of charge, and, on the exhibition of this instrument, they shall be permitted to enjoy the rights, privileges and immunities granted by this convention.

ARTICLE III

Consuls-general, consuls, vice-consuls and consular agents, citizens of the State by which they are appointed, shall be exempt from preliminary arrest except in the case of offences which the local legislation qualifies as crimes and punishes as such; they shall be exempt from military billetings, from service in the regular army or navy, in the militia, or in the national guard; they shall likewise be exempt from all direct taxes, national, State or municipal, imposed upon persons, either in the nature of capitation tax or in respect to their property, unless such taxes become due on account of the possession of real estate, or for interest on capital invested in the country where the said officers exercise their functions. This exemption shall not, however, apply to consuls-general, consuls, vice-consuls or consular agents engaged in any profession, business, or trade, but said officers shall in such case be subject to the payment of the same taxes that would be paid by any other foreigner under the like circumstances.

ARTICLE IV

When a court of one of the two countries shall desire to receive the judicial declaration or deposition of a consul-general, consul, vice-consul or consular agent, who is a citizen of the State which appointed him, and who is engaged in no commercial business, it shall request him, in writing, to appear before it, and in case of his inability to do so, it shall request him to give his testimony in writing, or shall visit his residence or office to obtain it orally.

It shall be the duty of such officer to comply with this request with as little delay as possible.

In all criminal cases, contemplated by the sixth article of the amendments to the Constitution of the United States, whereby the right is secured to persons charged with crimes to obtain witnesses in their favor, the appearance in court of said consular officer shall be demanded, with all possible regard to the consular dignity and to the duties of his office. A similar treatment

shall also be extended to the consuls of the United States in Serbia, in the like cases.

ARTICLE V

Consuls-general, consuls, vice-consuls and consular agents may place over the outer door of their offices the arms of their nation, with this inscription: Consulate-General, or Consulate, or Vice-Consulate, or Consular Agency of the United States or of Serbia.

They may also raise the flag of their country on their offices, except in the capital of the country when there is a legation there. They may in like manner, raise the flag of their country over the boat employed by them in the port for the exercise of their functions.

ARTICLE VI

The consular offices shall at all times be inviolable. The local authorities shall not, under any pretext, invade them. In no case shall they examine or seize the papers there deposited. In no case shall those offices be used as places of asylum. When a consular officer is engaged in other business, the papers relating to the consulate shall be kept separate.

ARTICLE VII

In the event of the death, incapacity or absence of consuls-general, consuls, vice-consuls and consular agents, their chancellors or secretaries, whose official character may have previously been made known to the Department of State at Washington or to the Ministry of Foreign Affairs in Serbia, may temporarily exercise their functions, and while thus acting they shall enjoy all the rights, prerogatives and immunities granted to the incumbents.

ARTICLE VIII

Consuls-general and consuls may, so far as the laws of their country allow, with the approbation of their respective governments, appoint vice-consuls and consular agents in the cities, ports and places within their consular jurisdiction. These agents may be selected from among citizens of the United States or of Serbia, or those of other countries. They shall be furnished with a regular commission, and shall enjoy the privileges stipulated for consular officers in this convention, subject to the exceptions specified in Articles 3 [III] and 4 [IV].

ARTICLE IX

Consuls-general, consuls, vice-consuls and consular agents, shall have the right to address the administrative and judicial authorities, whether in the United States, of the Union, the States or the municipalities, or in Serbia, of the State or the commune, throughout the whole extent of their consular

jurisdiction, in order to complain of any infraction of the treaties and conventions between the United States and Serbia, and for the purpose of protecting the rights and interests of their countrymen. If the complaint should not be satisfactorily redressed, the consular officers aforesaid, in the absence of a diplomatic agent of their country, may apply directly to the government of the country where they exercise their functions.

ARTICLE X

Consuls-general, consuls, vice-consuls and consular agents may take at their offices, at their private residence, at the residence of the parties, or on board ship the depositions of the captains and crews of vessels of their own country, of passengers on board of them, and of any other citizen of their nation. They may also receive at their offices, conformably to the laws and regulations of their country, all contracts between the citizens of their country and the citizens or other inhabitants of the country where they reside, and even all contracts between the latter, provided they relate to property situated or to business to be transacted in the territory of the nation to which the said consular officer may belong.

Such papers and official documents of every kind, whether in the original, in copies, or in translation, duly authenticated and legalized by the consuls-general, consuls, vice-consuls and consular agents, and sealed with their official seal, shall be received as legal documents in courts of justice throughout the United States and Serbia.

ARTICLE XI

In the case of the death of any citizen of the United States in Serbia, or of a Serbian subject in the United States, without having any known heirs or testamentary executors by him appointed, the competent local authorities shall give information of the circumstances to the consuls or consular agents of the nation to which the deceased belongs, in order that the necessary information may be immediately forwarded to the parties interested.

Consuls-generals, consuls, vice-consuls and consular agents shall have the right to appear, personally or by delegate, in all proceedings on behalf of the absent or minor heirs or creditors until they are duly represented.

ARTICLE XII

In consideration of the present convention the United States consent to surrender the privileges and immunities hitherto enjoyed by their citizens in Serbia, in virtue of the Capitulations with the Ottoman Empire granted and confirmed to the United States by their treaties of 1830¹ and 1862.²

¹ TS 267, *ante*, vol. 10, p. 619, OTTOMAN EMPIRE.

² TS 268, *ante*, vol. 10, p. 628, OTTOMAN EMPIRE.

Provided always, and it is hereby agreed, that the said Capitulations shall, as regards all judicial matters, except those affecting real estate in Serbia, remain in full force as far as they concern the mutual relations between citizens of the United States and the subjects of those other powers which, having a right to the privileges and immunities accorded by the aforesaid Capitulations, shall not have abandoned them.

ARTICLE XIII

The present convention shall remain in force for the space of ten years, counting from the day of the exchange of the ratifications, which shall be made in conformity with the respective constitutions of the two countries, and exchanged at Belgrade as soon as possible. In case neither party gives notice, twelve months before the expiration of the said period of ten years, of its intention not to renew this convention, it shall remain in force one year longer, and so on from year to year, until the expiration of a year from the day on which one of the parties shall have given such notice.

In faith whereof, the respective plenipotentiaries have signed this convention in duplicate, and have hereunto affixed their seals.

Done at Belgrade this 14 day of October, 1881.

EUGENE SCHUYLER [SEAL]

CH. MIJATOVICH [SEAL]